DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0359P
Income Tax
Calendar Year Ended 1998

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ISSUE(S)

I.   **Tax Administration** – Penalty

   Authority: IC 6-3-4-4.1

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a civil penalty for the underpayment of estimated income taxes. Taxpayer made one payment in the amount of $12,000 for the first quarter. Taxpayer made no subsequent payments for the remaining quarters, with a final payment of $50,000 on March 15, 1999. Taxpayers required to make estimated payments must remit either 100% of the prior year's tax or 80% of the current year's tax in four estimated payments to avoid the penalty.

I.   **Tax Administration** – Penalty
DISCUSSION

Taxpayer protests the penalty assessed because it changed ownership on September 16, 1998 and elected for federal tax purposes section 338(h)(10) that resulted in a large amount of income on that date due to the sale of the company. Taxpayer further states that the estimated quarterly tax payments made, matched the income of the company throughout the year. Taxpayer requests a refund of the penalty paid.

The penalty was assessed in this instance because the Taxpayer did not meet either of the exceptions from penalty for the underpayment of estimated taxes. The Taxpayer remitted neither 100% of the prior year's tax nor 80% of the current year's tax in a timely manner.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty. Taxpayer did not timely remit its quarterly estimated taxes.

FINDING

Taxpayer's protest is denied.

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